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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,137	12/15/2003	Yoshikazu Kawamoto	1341.1165	9242
21171 7590 10/02/2008 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER AU, GARY	
			ART UNIT 2617	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/734,137

Applicant(s)

KAWAMOTO, YOSHIKAZU

Examiner

Gary Au

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/27/2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-6, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 7,142,877 (Lipovski) and further in view of US Patent No. 6,718,175 (Edstam) and admitted prior art.

Considering claims 1 and 21, Lipovski teaches a portable communication apparatus (restricted device 101 - figure 1, col. 2 lines 20-49) and a method of controlling a communication function of a portable communication apparatus, comprising: inherently teaches a radio communication unit that performs communication

over a radio wave (restricted device 101 - figure 1, col. 2 lines 20-49 and col. 1 lines 45-54, where the restricted device has to have a radio communication unit to receive radio wave); inherently teaches a detection unit configured to receive light waves to detect whether the portable communication apparatus is present in a non-restricted area that include a first illumination source that emits a light wave (control signal 106 - figure 1, col. 2 lines 24-35, wherein the restricted device has to have a detection unit to detect the ultrasound control signal in order to mute or turn off the device), a second illumination source that emits a light wave (control signal 105 – figure 1, col. 2 lines 24-35, wherein the restricted device has to have a detection unit to detect the ultrasound control signal in order to mute or turn off the device) or a prohibited area adjacent to the warning area that includes a third illumination source that emits a light wave (col. 2 lines 44-49, wherein the restricted device has to have a detection unit to detect the ultrasound control signal in order to mute or turn off the device); inherently teaches a notification unit that notifies a user of the portable communication apparatus with a notification when the detection unit detects the light wave, the notification indicating that the portable communication apparatus is present in the warning area (col. 9 lines 5-26, where audio sound, a stored message or a vibrator can be used to notify the user that the restricted device is within a restricted area); and a stop control unit that selectively stops the radio communication unit from performing all radio communication (col. 5 line 60 – col. 6 line 3, wherein the restricted device may be completely turned off which means the radio communication unit has to be stopped from performing all radio communication) and during a period of time in which the detection unit detects the third

light wave (col. 2 lines 44-49, wherein the restricted device has to have a detection unit to detect the ultrasound control signal in order to mute or turn off the device). However, Lipovski fails to teach receiving an instruction from the user to stop all radio communication.

In an analogous art, Edstam teaches receiving an instruction from the user to stop all radio communication (col. 3 lines 19-24).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lipovski's system to include receiving an instruction from the user to stop all radio communication, as taught by Edstam, for the advantage of instructing the user to turn off the telephone when needed (col. 2 lines 5-10).

However, the combined system of Lipovski and Edstam fails to teach the light wave having a predetermined flicker frequency.

It is an admitted prior art that flicker frequency is well known in the art and that a skilled person in the art would understand the benefit of using a flicker frequency.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lipovski and Edstam to include the light wave having a predetermined flicker frequency, as taught by admitted prior art, for the advantage of adapting the right frequency.

Considering claim 3, Lipovski further teaches the light waves include an electromagnetic wave (col. 2 lines 50-62).

Considering claim 4, Lipovski further teaches the electromagnetic wave has a wave frequency defined as light (infrared, col. 2 lines 50-62).

Considering claim 5, Lipovski further teaches the electromagnetic wave has a wave frequency defined as infrared (infrared, col. 2 lines 50-62).

Considering claim 6, Lipovski teaches the light waves include an ultrasonic wave ([0018]).

Considering claim 17, Lipovski teaches a stop cancellation unit that, after radio communication has been stopped, allows the radio communication unit to perform radio communication when the detection unit does not detect either the light wave (col. 5 line 60 - col. 6 line 3). However, the combined system of Lipovski and Edstam fails to teach the light wave having a predetermined flicker frequency.

It is an admitted prior art that flicker frequency is well known in the art and that a skilled person in the art would understand the benefit of using a flicker frequency.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lipovski and Edstam to include the light wave having a predetermined flicker frequency, as taught by admitted prior art, for the advantage of adapting the right frequency.

4. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 7,142,877 (Lipovski), US Patent No. 6,718,175 (Edstam) and admitted prior art as applied to claim 1 above, and further in view of US Patent No. 6,782,266 Baer et al. (Baer).

Considering claim 18, the combined system of Lipovski, Edstam and the admitted prior art teaches the system as described above. However, the combined system fails to disclose a storage unit that receives information to be transmitted over the radio wave after the stop cancellation unit allows the radio communication unit to perform radio communication, and that stores the information.

In an analogous art, Baer teaches a storage unit that receives information to be transmitted over the radio wave after the stop cancellation unit allows the radio communication unit to perform radio communication, and that stores the information (memory 156 – figure 1, col. 4 lines 54-61).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lipovski, Edstam and admitted prior art to include a storage unit that receives information to be transmitted over the radio wave after the stop cancellation unit allows the radio communication unit to perform radio communication, and that stores the information, as taught by Baer, for the advantage of storing information.

Considering claim 19, the combined system of Lipovski, Edstam and the admitted prior art teaches the system as described above. However, the combined

system fails to disclose an alternative communication unit that holds alternative communication over a medium other than the radio wave when radio communication is stopped.

In an analogous art, Baer teaches an alternative communication unit that holds alternative communication over a medium other than the radio wave when radio communication is stopped (second transceiver 152 – figure 3, col. 5 lines 35-49).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lipovski, Edstam and the admitted prior art to include an alternative communication unit that holds alternative communication over a medium other than the radio wave when radio communication is stopped, as taught by Baer, for the advantage of providing an alternate communication method.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 7,142,877 (Lipovski), US Patent No. 6,718,175 (Edstam) and admitted prior art as applied to claim 17 above, and further in view of US Patent No. 6,760,605 Vannel et al. (Vannel).

Considering claim 20, the combined system of Lipovski, Edstam and the admitted prior art teaches the system as described above. However, the combined system fails to disclose restarting radio communication.

In an analogous art, Vannel teaches restarting radio communication (col. 5 lines 28-31).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lipovski, Edstam and the admitted prior art to include restarting radio communication, as taught by Vannel, for the advantage of getting the system in default mode (col. 5 lines 28-31).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Au whose telephone number is (571) 272-2822. The examiner can normally be reached on 8am-5pm Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent P. Harper can be reached on (571) 272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/VINCENT P. HARPER/
Supervisory Patent Examiner, Art Unit 2617

/Gary Au/
Examiner, Art Unit 2617